

Abstract

Thesis title: Insolvency of a managed person and the consequences for the corporate group

This thesis deals with the bankruptcy of controlled affiliate and its legal consequences for operating of the whole corporate group in the Czech legal system. Firstly, it states the theoretical basis for the legal regulation of corporate groups and their basic elements - corporations. In relation to the regulation of corporate groups it points out the conflict between entity approach and enterprise approach, both addressing the corporate group differently with respect to corporate personality. It further provides a brief explanation on the nature of bankruptcy and defines it as an occasion where the ownership of the corporation does in fact fundamentally change. Secondly, it introduces some legal instruments of the company law and the law of the corporate groups governing both, the liability of controlling entity for its conduct in the management of the controlled affiliate and the duties of persons with certain functions or influence over the corporation in the so called twilight zone of insolvency. It is argued that the object of such provisions is to prevent the bankruptcy and to provide a remedy to creditors and shareholders in case of abuse of the corporate group structure by the controlling entity. This thesis further analyses some specific insolvency law rules which were created as a reaction to the general insolvency law failure to appropriately address the corporate group scenario. Such rules may involve provisions regulating undervalue transactions or voidable preferences and provisions limiting the controlling entities' voting rights or their right to acquire debtor's assets in the insolvency proceedings in order to promote the prevailing *pari passu* principle. Finally, this paper introduces provisions on subordination and rather controversial concept of substantial consolidation and examines their potential for the Czech insolvency law. Some proposals are made using the comparative legal research method.